

*Appln. Serial No. 10/590,435  
Response May 9, 2011*

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### REMARKS/ARGUMENTS

#### Claim Amendments

As the Examiner did not enter the prior amendments as discussed with the Examiner after the final response on October 14, 2010, they are being resubmitted along with additional amendments. The amendments to the claims are summarized below.

Claims 9 and 11 were cancelled.

Claim 16 was amended to depend from claim 2.

Claims 62 and 63 were cancelled.

New claims 65 – 68 were added that parallel the language of claims 13 and 14, claims 65 and 66 being dependent on claim 2 and claims 67 and 68 being dependent on claim 3.

It is submitted that the amendments find support in the application and claims as originally filed and entry of said amendments is respectfully requested.

#### Remarks

Applicant wishes to thank the Examiner for the teleconferences.

#### Claim Objections

The Examiner stated that if claims 1-3, 15 and 64 were found allowable, claims 9-11, 16, 62 and 63 would be objected for improper dependency and the claims being redundant. Applicant has cancelled claims 9 – 11, amended claim 16 to depend on claim 2 and cancelled claims 62 and 63. As such, it is submitted that the claim objections are rendered moot and are now overcome.

#### Double Patenting

The Examiner issued a provisional double patenting rejection in light of Applicant's co-pending patent application number 12/905,773. Applicant will make any required terminal disclaimer in patent application number 12/905,733 if and as required, at the appropriate time.

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35 USC§102(e)

1. The Examiner rejected claims 1, 9 and 13-16 as being anticipated by US2008/0090770 A1 to Belmares et al. Applicant traverses the rejection as follows.

The Examiner states that Belmares et al disclose peptide agents of the formula X1-aa2-aa1-aa0, wherein X1 may be "0" amino acids and the remaining residues may be "ANL" (SEQ. ID. NO. 20 and paragraph [0073]).

First, Belmares outlines certain peptides that prevent the interactions between the mucin glycoprotein MUC1 (i.e. the carboxy-terminus of MUC1) to the PDZ domains of other proteins as a means of making it more susceptible to various cancer chemotherapy treatments. It does not teach peptides related to amyloid inhibition, as disclosed in the present invention.

Further, in the context of the entire paragraph, Belmares, in the Examples they only show a 7 mer, "AAASANL" as being effective for their purposes. In fact the "X" site of the Belmares peptide quoted by the Examiner above is described as from 0-200 amino acids which puts it into the range of a "fusion protein" which is also referred to in the filing. Belmares appears to wish to protect a particular motif within a larger peptide. As such, it is submitted that Belmares does not disclose an "isolated" trimer or claims an isolated trimer with utility, or utility of the present invention. In fact, Belmares does not appear to be concerned with the "X" residue, unlike the present invention which positively claims the presence of the X residue as a feature of the invention. Further, it is submitted that the application is not enabled for a trimer to enable a person of skill in the art to come to the trimers of the present invention without undue experimentation. It is submitted that the genus of Belmares is very large and there is no motivation or explicit teachings of the trimers of the present invention in Belmares. Further, this is especially so as the use of the peptides described in Belmares differ from that of the present application.

As such, it is submitted that Belmares does not teach isolated trimers nor does it teach trimers for the application of the present invention. As such, it is submitted that Belmares does not anticipate the claims of the present invention.

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As such, it is believed that this response and amendments traverses the Examiner's rejections to the claims and the rejections are requested to be withdrawn.

2. The Examiner rejected claims 1-3, 9-11, 13-16 and 62-64 as being anticipated by US Patent Application No. US2005/0020809 to Gazit. The Applicant traverses the rejection as follows.

The Examiner states that Gazit discloses a peptide of ANFAV and describes that the peptide can be at least 3 amino acids. The Examiner acknowledges that a specific trimer as claimed in the present application is not disclosed. The Examiner states that due to the limited number of 3 amino acid peptides in ANFAV, a peptide consisting of ANF would have been obvious.

First it should be noted that a rejection under 102(e) by anticipation alone, Gazit does not specifically disclose the trimers of the present invention and as such, it is submitted does not adequately provide any support for such a statement.

Further, MPEP 2144.08 states that, "the fact that a claimed species or subgenus is encompassed by a prior art genus is not sufficient by itself to establish a *prima facie* case of obviousness. *In re Baird*, 16 F.3d 380, 382, 29 USPQ2d 1550, 1552 (Fed. Cir. 1994) ("The fact that a claimed compound may be encompassed by a disclosed generic formula does not by itself render that compound obvious."). In fact, there is no motivation or express teaching of the selection of the peptides disclosed and claimed in the present invention and no certainty, at the time of Gazit as to what portion of the larger peptide would work or where to start. There are no specific properties of a trimer disclosed in Gazit that would motivate a person of skill in the art to arrive at the trimers of the present invention. This is unlike *In re Schauman* which was concerned about particular chemical compounds and taught the specific properties and chemical structure to select for (e.g. "lower alkyl secondary amines"). In fact the different shorter peptide options disclosed by the Examiner are structurally different peptides (ANF, NFA, and FAV), when looked at chemically and again it is submitted, Gazit does not teach which structural properties to select for.

Further, although Gazit does disclose some tri-peptides the sequences are DFN, FFP, NYX, NYP, they are not related to the peptides of the present invention. So again, there is no

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motivation to obtain the peptides of the present invention. Gazit's focus appears to be largely on the NFGAILS sequence (please see Figure 3A of Gazit). Figure 10B discloses 10 mers comprising ANF, but not shorter peptides. Examples 40 – 45 of Gazit use modified Alanine peptides, again which do not disclose or suggest the trimers of the present application nor, it is submitted, suggest obtaining or trying trimers of the larger peptide comprising ANF.. As such, it is submitted that the obtaining the trimers of the present invention would not be routine, are novel and are inventive over Gazit.

The Commissioner is hereby authorized to charge any fee which may be required to fully reply and enter this response, including any claim fees or extensions of time fees, or otherwise to keep the application in good standing, to our firm's Deposit Account No. 15-0633.

Should the Examiner like to discuss the matter, she is kindly requested to contact Anita Nador at 416-601-7530 at her convenience.

Respectfully submitted,  
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Dated: May 9, 2011

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